



MAYOR AND COUNCIL COMMUNICATION

DATE: 11/15/2016

REGULAR

ITEM #: 25

AGENDA ITEM: Diedrich Property Preliminary Plat Extension

SUBMITTED BY: Emily Becker, City Planner

THROUGH: Kristina Handt, City Administrator

REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

The property known as Diedrich Property Preliminary Plat, PID #s 36.029.21.32.0002 and 36.029.21.32.0034, was granted Preliminary Plat approval by the City Council by Resolution 2015-056 on July 21, 2015. The approval was for a 46-unit single family attached (townhouse) development to be located on slightly over 15 acres of land immediately east of Lake Elmo Avenue and north of Hunters Crossing development. The approval was subject to 16 conditions; the Resolution outlining these conditions is attached.

According to Lake Elmo City Ordinance 153.07, a subdivider of land must submit a final plat within 180 days after approval of preliminary plat or the plat will be considered void. As such, the applicant had requested and was granted Preliminary Plat Extension by Council on December 15, 2015 to allow for more time to arrange bank financing and prepare for final plat. This extension will expire December 1, 2016. The applicant is again requesting an extension to obtain due diligence and financing.

ISSUE BEFORE COUNCIL:

The Council is respectfully requested to consider a request by Gerhard Rieder for a Preliminary Plat Extension for the Diedrich Property Preliminary Plat.

PROPOSAL DETAILS/ANALYSIS:

Development Concerns. The attached resolution includes conditions that address the following development concerns:

Need for Updated Construction Plans. As previously stated, Preliminary Plat approval was subject to a number of conditions. One of these conditions was that the applicant shall update all of the landscaping and construction plans to reflect the updated site plan that includes a public right-of-way within the project area, and these must be approved by the City Engineer. The site plan was changed due to concerns over how the City will maintain its sewer and water infrastructure and required right-of-way along CSAH 17 and stormwater management facilities. These plans have

not yet been updated, and while Staff has expressed a concern about the number of changes that will likely need to be made, these changes can be addressed at the time of Final Plat application.

Zoning. The property was not rezoned to Urban Medium Density at the time of Preliminary Plat approval. The property is still zoned Rural Development Transitional. The Preliminary Plat closely meets the density requirements of Urban Medium Density zoning, and a Comprehensive Plan Amendment was processed to re-guide the property to Urban Medium Density in 2013. The applicant has applied for a Zoning Map Amendment to rezone property to Urban Medium Density to align the zoning with the Comprehensive Plan. A public hearing regarding the rezoning is planned for December 12, 2016, and it is anticipated that Council will consider the request on December 20, 2016.

Outlot D of Hunters Crossing. Outlot D of Hunters Crossing was included in the approved Preliminary Plat of the property. However, this parcel is still owned by Ryland Group, Inc./CalAtlantic, and the Preliminary Plat application was not signed by Ryland Group, Inc./CalAtlantic. According to meeting minutes from the Planning Commission meeting on June 22, 2015, Lennar (no longer working on the project) had planned to work with Ryland Group, Inc. on procuring Outlot D. However, no definite plans or agreements had been made. The ownership of this outlot will need to be transferred in order for the property to be platted as approved.

Development Impact/Benefit. Staff has expressed support for the project because of its impact on the completion of the northern half of the segment of 5th Street to the east of Lake Elmo Avenue.

If Extension Is Not Approved. If the requested extension is not approved, the applicant will need to submit a new preliminary plat application in order to pursue any development on the affected property. This would be a significant added cost to the applicant along with additional Staff time and a possible delay to a developer.

Applicable Regulations. The Staff Report for the previous extension included language from the State Statute listed below that prohibits any amendment to a comprehensive plan or official control that applies to or would affect the use, development density, lot size, lot layout, or dedication or platting required or permitted by the approved application for one year following preliminary approval unless the subdivider and the municipality agree otherwise. Because it has been more than one year since the initial Preliminary Plat approval, this no longer applies.

Statute 462.358

Subd. 3c. Effect of subdivision approval.

For one year following preliminary approval and for two years following final approval, unless the subdivider and the municipality agree otherwise, no amendment to a comprehensive plan or official control shall apply to or affect the use, development density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the municipality may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, a municipality may by resolution or agreement grant the rights referred to

herein for such periods of time longer than two years which it determines to be reasonable and appropriate.

FISCAL IMPACT:

5th Street. The City will require that the applicant enter into a developer's agreement with the City to specify the financial responsibilities for various aspects of the subdivision and related public improvements. It is expected that the project will include the construction of the northern half of the segment of 5th Street to the east of Lake Elmo.

Municipal services and property taxes. The developer is expected to pay the Water Availability Charge for the entire development at the time a final plat (\$138,000 per unit) and Sewer Accessibility Charge (\$138,000) similar to other developments that are connecting to the Municipal services. In addition, at the time of building permit issuance, water and sewer connection charges will be collected in the amount of \$2,000/unit (\$92,000). When fully developed, the property taxes will produce roughly $(\$350,000 \times 46) \div 1000 = \$32,200$ in increased revenue per year.

OPTIONS:

The Council may:

- Approve the request for Preliminary Plat Extension.
- Deny the request for Preliminary Plat Extension.

RECOMMENDATION:

Staff recommends that the Council approve the requested Preliminary Plat Extension for a period of one year. The applicant will need to again request an extension or file for Final Plat approval by December 1, 2017. Staff recommends that the Resolution include the following conditions to address development concerns previously outlined in this report:

1. Fee owner of Outlot D of Hunters Crossing (Ryland Group, Inc.), must provide a letter approving the Preliminary Plat, and negotiations must be executed between the Applicant and owner of Outlot D of Hunters Crossing to include this outlot in the Final Plat.
2. The Council shall approve the Zoning Text Amendment to rezone the Property to Urban Medium Density Residential.
3. The applicant shall agree to update the preliminary plat and construction plans including landscape plans to reflect public right-of-way within the project area at the time of final plat.

“Move to adopt Resolution No. 2016-102 approving the Diedrich Property Preliminary Plat extension for one year, with outlined conditions.”

ATTACHMENTS:

- Resolution No. 2016-102 approving the Diedrich Property Preliminary Plat extension for one year.
- Resolution No. 2015-088 approving the Diedrich Property Preliminary Plat extension for one year.
- Resolution No. 2015-056 approving the Diedrich Property Preliminary Plat
- Diedrich Property Preliminary Plat

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2016-102

***A RESOLUTION APPROVING EXTENSION FOR DIEDRICH PROPERTY PRELIMINARY
PLAT TO FILE FOR FINAL PLAT***

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Gerhart Rieder, property owner, 7401 Wyndham Way, Woodbury, MN 55125, submitted an application to the City of Lake Elmo (City) for a preliminary plat for a 46-unit singled family attached (townhouse) development on approximately 15 acres in the RT Rural Development Transitional Zoning District (PID#s: 36.029.21.32.0002 and 36.029.21.0034) referred to as Diedrich Property Preliminary Plat, a copy of which is on file in the City of Lake Elmo Planning Department; and

WHEREAS, the Preliminary Plat includes Outlot D of Hunters Crossing and is still owned by Ryland Group, Inc.; and

WHEREAS, on July 7, 2015, the Lake Elmo Planning Commission reviewed and recommended approval of the Diedrich Preliminary Plat; and

WHEREAS, on July 21, 2015, the Lake Elmo City Council adopted Resolution 2015-056 granting preliminary plat approval for a 46-unit singled family attached (townhouse) Development; and

WHEREAS, on December 15, 2015, the Lake Elmo City Council adopted Resolution 2015-88 approving a 12-month extension to the Final Plat submittal deadline of the approved plat to allow for additional time to prepare for financing and other planning activities, thereby extending the final plat application deadline to December 1, 2016; and

WHEREAS, the property was granted a Comprehensive Plan Amendment amending the Property's planned land use to Medium Density Residential but has not yet been granted a Zoning Map Amendment to amend the property's zoning to Urban Medium Density Residential; and

WHEREAS, a condition of Preliminary Plat was that the applicant update all of the landscaping and construction plans to reflect the updated site plan that includes a public right-of-way within the project area, and these plans have not yet been submitted; and

WHEREAS, Gerhart Reider has requested an additional 12-month extension to the Final Plat submittal deadline of the approved plat to allow for additional time to prepare for financing and other planning activities;

NOW, THEREFORE, BE IT RESOLVED THAT the City Council does hereby approve a 12-month extension for the Diedrich Property Preliminary Plat, thereby extending the final plat application deadline to December 1, 2017, with the following conditions:

1. Fee owner of Outlot D of Hunters Crossing (Ryland Group, Inc.), must provide a letter approving the Preliminary Plat, and negotiations must be executed between the Applicant and owner of Outlot D of Hunters Crossing to include this outlot in the Final Plat.
2. The Council shall approve the Zoning Text Amendment to rezone the Property to Urban Medium Density Residential.
3. The applicant shall agree to update the preliminary plat and construction plans including landscape plans to reflect public right-of-way within the project area at the time of final plat.

Passed and duly adopted this 15th day of November, 2016 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

Gary Rieder, Applicant

ATTEST:

Julie Johnson, City Clerk

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO. 2015-88

A RESOLUTION APPROVING

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Gerhart Rieder, property owner, 7401 Wyndham Way, Woodbury, MN 55125, submitted an application to the City of Lake Elmo (City) for a preliminary plat for a 46-unit singled family attached (townhouse) development on approximately 15 acres in the RT-Rural Development Transitional Zoning District (PID: 36.029.21.32.0002) referred to as Lennar Diedrich Property Preliminary Plat, a copy of which is on file in the City of Lake Elmo Community Development Department; and

WHEREAS, on July 7, 2015, the Lake Elmo Planning Commission reviewed and recommended approval of the Lennar Diedrich Preliminary Plat; and

WHEREAS, on July 21, 2015, the Lake Elmo City Council adopted Resolution 2015-056 granting preliminary plat approval for a 46-unit singled family attached (townhouse) development

WHEREAS, Gerhart Reider has requested a 12-month extension to the Final Plat submittal deadline of the approved plat to allow for additional time to prepare for financing and other planning activities;

NOW, THEREFORE, BE IT RESOLVED THAT the City Council does hereby approve a 12-month extension to the Final Plat deadline for the Lennar Diedrich property residential subdivision, thereby extending the final plat application deadline to December 1, 2016.

Passed and duly adopted this 15th day of December, 2015 by the City Council of the City of Lake Elmo, Minnesota.



Mike Pearson, Mayor

ATTEST:


Julie Johnson, City Clerk

**CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA**

RESOLUTION NO. 2015-056

*A RESOLUTION APPROVING A PRELIMINARY PLAT FOR
THE LENNAR DIEDRICH TOWNHOUSES*

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Lennar Corporation, 16305 36th Avenue North, Plymouth, MN (Applicant) has submitted an application to the City of Lake Elmo (City) for a Preliminary Plat for the Lennar Diedrich Townhouses subdivision, a copy of which is on file in the City of Lake Elmo Community Development Department; and

WHEREAS, the Lake Elmo Planning Commission held public hearing on June 22, 2015 to consider the Preliminary Plat request; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation concerning the Preliminary Plat as part of a memorandum to the City Council from Community Development Director Kyle Klatt for the July 7, 2015 Council Meeting; and

WHEREAS, the Lake Elmo Planning Commission adopted a motion recommending approval of the Preliminary Plat; and

WHEREAS, the City Council reviewed the Preliminary Plat at its meeting held on July 7, 2014 and made the following findings of fact:

- 1) That the preliminary plat is consistent with the Lake Elmo Comprehensive Plan and the Future Land Use Map for this area.
- 2) That the preliminary plat complies with the City's Urban Medium Density Residential zoning district regulations.
- 3) That the preliminary plat complies with all other applicable zoning requirements, including the City's landscaping, storm water, sediment and erosion control and other ordinances with the plan revisions as requested by City Staff and consultants.
- 4) That the preliminary plat complies with the City's subdivision ordinance.
- 5) That the preliminary plat is consistent with the City's engineering standards provided the plans are updated to address the City Engineer's comments documented in a letter dated June 17, 2014.
- 6) That there are no City parks located within ½ mile of the proposed subdivision.

- 7) That the updated development plans indicate that proposed structures on Lots 29-32 are located too close to the property line and that the development plans must be updated to move these structures to the required setbacks prior to the submission of a final plat.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council does hereby approve the preliminary plat for the Lennar Diedrich Townhouses subdivision subject to the following conditions:

- 1) The landscape plan and tree preservation plan shall be reviewed and approved by an independent forester or landscape architect in advance of the approval of a final plat and final construction plans.
- 2) The final landscape plan shall incorporate additional plantings where feasible adjacent to the shared property lines with parcel at 11490 Hudson Boulevard.
- 3) The applicant shall be responsible for updating the final construction plans to include the construction of all improvements within the Lake Elmo Avenue (CSAH 17) right-of-way as required by Washington County and further described in the review letter received from the County dated March 3, 2015. The required improvements shall include, but not be limited to the construction of a northbound right turn lane and southbound center turn lane.
- 4) The developer shall follow all of the rules and regulations spelled out in the Wetland Conservation Act, and shall acquire the needed permits from the Valley Branch Watershed District prior to the commencement of any grading or development activity on the site.
- 5) The applicant shall enter into a maintenance agreement with the City that clarifies the individuals or entities responsible for any landscaping installed in areas outside of land dedicated as public park and open space on the final plat.
- 6) The developer shall be required to pay a fee in lieu of park land dedication equivalent to the fair market value for the amount of land that is required to be dedicated for such purposes in the City's Subdivision Ordinance. A cash payment in lieu of land dedication shall be paid by the applicant prior to the release of the final plat for recording.
- 7) The applicant must enter into a separate grading agreement with the City prior to the commencement of any grading activity in advance of final plat and plan approval. The City Engineer shall review any grading plan that is submitted in advance of a final plat, and said plan shall document extent of any proposed grading on the site.
- 8) All required modifications to the plans as requested by the City Engineer in a review letter dated June 17, 2015 shall be incorporated into the plans prior to consideration of a final plat.

- 9) The applicant shall update all of the landscaping and construction plans to reflect the updated site plan that includes a public right-of-way within the project area. These updated plan shall be subject to review and approval by the City Engineer.
- 10) Although the updated site plan does not incorporate a private street, any request for flexibility from City regulations and standards must be considered and addressed as part of the final plat submission.
- 11) The final construction plans for the Diedrich Townhouses subdivision shall include, at a minimum, the northern portion of 5th Street if a joint construction project between the applicant and Ryland Homes does not proceed in advance of a final plat submission for the applicant's site.
- 12) The architectural covenants for the homeowner's association shall include provisions that discourage blank garage doors. All garage doors shall incorporate windows or decorative trim to minimize the visual impact of the garage-forward home design.
- 13) Prior to recording the Final Plat for any portion of the area shown in the Preliminary Plat, the Developer shall enter into a Developers Agreement acceptable to the City Attorney that delineates who is responsible for the design, construction, and payment of public improvements.
- 14) The site plan and construction plans shall be revised to include a sidewalk along at least one side of all streets within the subdivision.
- 15) The applicant shall pay a Water Availability Charge consistent with the Lake Elmo Fee Schedule for the entire development prior to the release of the final plat for recording, regardless of project phasing.
- 16) The developer shall secure a written grading agreement from Excel Energy concerning the proposed grading activity underneath an existing power line easement across the property prior to submission of a final plat.

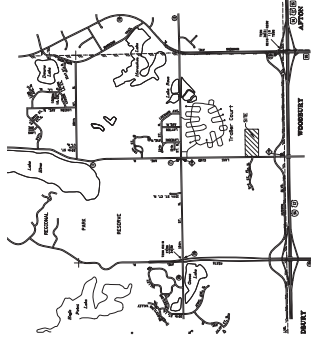
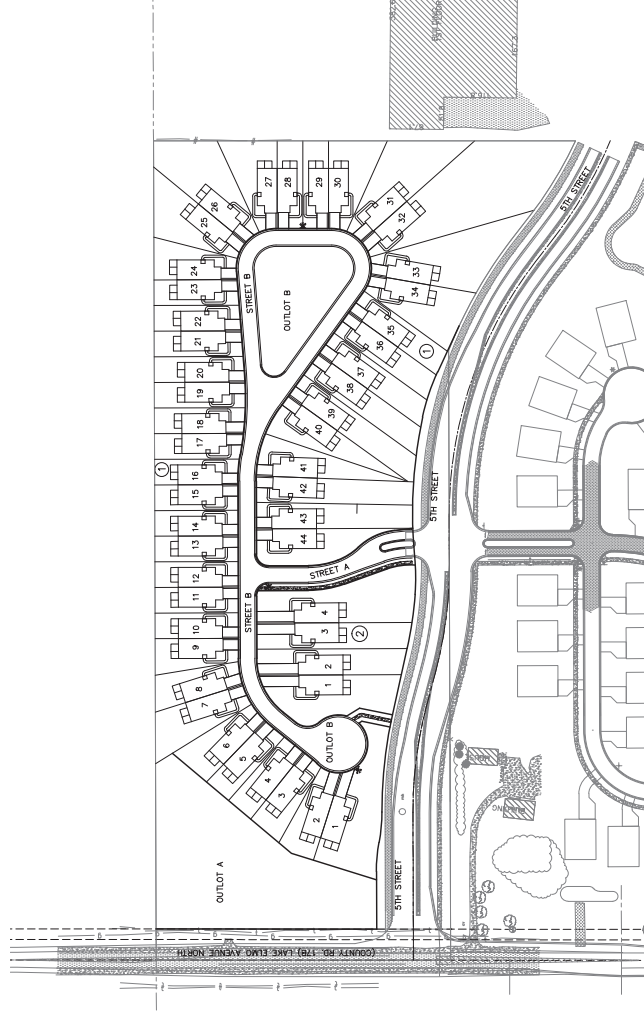
Passed and duly adopted this 21st day of July 2015 by the City Council of the City of Lake Elmo, Minnesota.

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

DIEDRICH PROPERTY PRELIMINARY PLAT LAKE ELMO, MINNESOTA



LOCATION MAP



- SHEET INDEX**
1. COVER SHEET
 2. LEGEND SHEET
 3. EXISTING CONDITIONS
 4. PRELIMINARY PLAT
 5. PRELIMINARY SITE PLAN
 - 6-7. PRELIMINARY UTILITY PLAN
 8. PRELIMINARY GRADING PLAN
 9. EROSION CONTROL PLAN
 10. PRELIMINARY SEEDING PLAN
 11. PRELIMINARY STREET PROFILES
 - 12-14. DETAILS

- L1. LANDSCAPE PLAN**
T1. TREE PRESERVATION PLAN

BENCH MARK
MN/DOH 82282 AG
ELEV=943.87 (1983 datum)

0.0000 15.845 SHEET COVER

DIEDRICH PROPERTY
LAKE ELMO, MINNESOTA

LENNAR
16805 38TH AVENUE N, SUITE 600
PLYMOUTH, MINNESOTA 55446

COVER SHEET

DATE: 04-23-2014
DESIGNED: JPC/DMM
CHECKED: JMM

REVISION:
1. 06-01-2014 CITY COMMENTS

PROJECT: Diedrich Property
SHEET: 1 OF 14

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